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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,480	08/01/2003	Dan Pharo		6404

7590 03/10/2006

Robert J. Schaap
Ste. 188
21241 Ventura Blvd.
Woodland Hills, CA 91364

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/633,480	Applicant(s) PHARO ET AL.	
	Examiner R. Alexander Smith	Art Unit 2859	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 09 January 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



R. Alexander Smith
Primary Examiner

Application/Control Number: 10/633,480

Art Unit: 2859

Continuation Sheet (PTOL-462)

For Item 5 on form 462:

The MPEP requires a concise statement of each ground of rejection presented for review. By the arguments presented under Section VIII, it appears that the applicant is arguing the following claims separately from the arguments of Hensler et al. in view of Chien and Gehweiler et al.

Claims 9 and 29 further in view of Schnee on page 21,

Claims 5, 25 and 31 further in view of Phillips on pages 21-22, and

Claim 30 as addressed on pages 20-21.

Therefore, there should be a concise statement for each of these.

For Item 6 on form 462:

The MPEP states that any claim argued separately should be placed under a subheading identifying the claim by number. Therefore it appears that claims 5, 9, 26, 29, 30 and 31 as separately addressed in the arguments and as noted for Item 5 above need to be identified by claim number.

For Item 7 on form 462:

For Appendix A, the claims are not correct since the proposed amendment after final was entered for the proposes of Appeal as noted in Item 10 below.

For Item 10 on form 462:

On page 2, under Section III "90/758,934" should be --09/758,934--.

On page 3, under Section IV, the statements 2) and 3) should be deleted since these issues were addressed by the Amendment after Final on April 20, 2005 and approved for entry in the Office action dated May 6, 2005.

Application/Control Number: 10/633,480

Art Unit: 2859

Continuation Sheet (PTOL-462)

On page 4, under Section V, the statement that the Amendment after Final was denied is incorrect. The Office action mailed May 6, 2005 stated that the proposed amendments in the Amendment after Final would be entered for purposes of Appeal.

Given Item 5 and Item 6, then for pages 7-8, under Section VII, the breakout of the claims for review on appeal appear to be listed incorrectly.

On page 8, under Section VII, 1), line 3: "102" should be --103--.

On pages 8-9, under Section VIII, argument A, i.e., "Non-Merit Rejections/Objections", is moot in view of the proposed amendment after final having been entered.

On page 35, under IX, the Appeal Brief is not signed.